

NOTES ON THE PORT PHILLIP ASSOCIATION

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Port Phillip was discovered by Lieutenant Murray in the *Lady Nelson* on 5 January 1802. He was unable to enter on account of bad weather and currents. He sailed for King Island to continue survey work there. This completed, Murray sailed to Westernport and sent Bowen, his first mate, and five men in a boat to examine the entrance to Port Phillip; they accomplished this by passing into the bay on 2 February and promptly returned to Murray. However, bad weather again intervened and Murray was unable to take the *Lady Nelson* in to the bay until 15 February 1802. Murray spent twenty-five days examining Port Phillip and returned to Port Jackson on 16 March 1802.¹

Flinders entered Port Phillip on 26 April 1802 on his way to Sydney, soon after his meeting with Baudin in Encounter Bay. He remained there until 3 May. He expressed a generally favourable impression of the bay and surrounding country, but did remark on the difficulties of the entrance.²

Governor King acted on Murray's and Flinders' reports by recommending to the Duke of Portland that a settlement be made at Port Phillip. He proposed sending people from Sydney, but had no officer he could spare or to whom he could entrust the command of the new settlement. He added "I am the more solicitous respecting forming this settlement, from the probability of the French having it in contemplation to make a settlement on the N.W. coast (of straits), which I cannot help thinking is a principal object of their researches".³

King's recommendation went forward on 21 May 1802. In late November or early December 1802 the Colonial Office was acting on it. There is extant a "memorandum of

1. H.R.A. I, iii, 482 and n. 191.

2. M. Flinders. *Terra Australis*, Vol. 1, 210-220.

3. H.R.A. I, iii, 490.

a proposed settlement in Bass's Straights".⁴ It proposed the adoption of King's recommendation for a new settlement at Port Phillip, the appointment of a competent person to commence the establishment there and the use of H.M.S. *Calcutta* to convey the Lieutenant Governor, a detachment of marines and settlers and convicts there.

Lieutenant-Colonel David Collins, R.M., was commissioned Lieutenant-Governor of the new settlement on 14 January 1803. The commission gave some latitude as to the actual site of the settlement within the Straits.⁵

In the meantime King was growing more concerned over French intentions. On 9 November 1802 he refers, in a despatch to Lord Hobart, to his ideas respecting the policy of forming a settlement at Port Phillip and in Storm Bay Passage or Derwent River or both of those places.⁶ Again on 23 November 1802 he wrote to Lord Hobart, having been informed by Lieutenant-Colonel Paterson and others of a French-stated intention to settle at Storm Bay.⁷ He stated his intention of placing small establishments at Storm Bay and Port Phillip as soon as the *Porpoise* arrived back from Tahiti. In the meantime he sent the *Cumberland* with a Lieutenant Robbins in command to examine King Island and Port Phillip for sites suitable for settlement.⁸

ADVERSE REPORT

Robbins and the Surveyor General, Grimes, who had accompanied him, although they found the River Yarra at the head of Port Phillip, reported that its shores would not be likely to support a large agricultural settlement. It was also hampered by a great scarcity of fresh water, sufficient for a settlement or supplying ships but not for agriculture.⁹

On 9 October 1803 Collins arrived at Port Phillip in H.M.S. *Calcutta* (Capt. Daniel Woodriff). The transport ship *Ocean* had arrived two days beforehand.

Collins had with him 299 male convicts, 16 married women, a few settlers and 50 marines with a civil staff of eleven. He anxiously sought a site for the settlement and fixed on what is now Sorrento. His dislike of Port Phillip is expressed in his letter to King of 5 November 1803. He

4. H.R.A. III, i, 1-3 and n. 1.

5. H.R.A. III, i, 4.

6. H.R.A. I, iii, 699.

7. *Ibid* 737.

8. *Ibid* 738-739.

9. H.R.A. I, iv, 144-145 and 249.

concludes that "the Bay itself, when viewed in a commercial light, is wholly unfit for any such purpose".¹⁰

In a despatch to Lord Hobart on 14 November 1803 Collins says: "Port Dalrymple, on the Northern Side of Van Dieman's Land, appears to possess those requisites for a settlement, in which this very extensive harbour is so wholly deficient. Every day's experience convinces me that it cannot, nor ever will be, resorted to by speculative men".¹¹

In the event, it was to the Derwent that Collins took his people. King had already sent Lieutenant Bowen there with a small establishment which had settled at Risdon Cove.¹² Collins found Risdon unsuitable and moved across the river to Sullivans Cove and so Hobart was founded.¹³

Had Collins missed a great opportunity? The answer appears to be, at that time, no! The bay was at best uncertain in its accessibility, at worst a death trap. A big ship of Collins' day was in no condition, after a long voyage, to beat off-shore if entrance to the bay proved impossible. K. M. Dallas¹⁴ is of the opinion that seapower (and wealth) were to the nation which could hold the harbours on which the safety of shipping depended and deny them to its enemies. As Dallas points out, in 1803 King sent Bowen to occupy the Derwent River. If he did this to forestall the French, why did he not think Port Phillip a more valuable situation? It is clear that he knew it was quite unfit for the purposes in mind and that the French would not be so foolish as to try to occupy it.¹⁵

In June 1803 Lord Hobart wrote to King that the position of Port Dalrymple rendered it "in a political view peculiarly necessary that a settlement should be formed there". The Home government had the general charts. The positions of both places showed their importance for shipping, and that French occupation would make the strait useless in war and also threaten all shipping and whaling on the coasts. That was correct in a superficial view, but the details King had from Robbins showed that Port Phillip could be ruled out.

Danger and delay in both entering and leaving the Bay were decisive facts. There was then no question of access to sheep lands and subsistence agriculture was of interest only as a supply to ports for whalers and merchants. Historians

10. H.R.A. III, i, 26-29.

11. *Ibid* 35.

12. H.R.A. I, iv, 152-153.

13. H.R.A. III, i, 148.

14. Dallas, K. M. *Trading Posts or Penal Colonies*. Fullers, Hobart, 1969. p. 36.

15. *Ibid*, p. 88.

have stressed the difficulty in finding water, but that is true only of the parts near the entrance. Water in the Yarra River forty miles away might just as well have been a hundred miles — it was no use to shipping. Collins' judgment has been impugned because the commentators have not understood the intentions of the Home government and the overwhelming force of the navigational hazards. They have judged from what Port Phillip became when the objects were different and when seafaring conditions were changed, especially by the use of paddle steamers.¹⁶

It was to be over thirty years before the objects changed sufficiently to bring the matter of a settlement at Port Phillip to the fore again and actually into being.

We have seen how the approach to Port Phillip from the sea had proved uninspiring in a context of safe harbourage and refreshment for shipping engaged in whaling, sealing and the Pacific trade generally.

During the first two decades of the nineteenth century settlers kept up a steady movement outwards from Sydney into the interior of the country. By 1823 exploration had moved as far south as Lake George on the southern highlands. Governor Brisbane at this time hoped to have the country between Lake George and Bass Strait explored, and planned an official expedition which never eventuated.

William Hovell and Hamilton Hume who had been considered as the principals of Brisbane's party, decided to undertake the journey at their own expense, and on 17 October 1824 left Hume's station near Gunning for Westernport. The Government did assist, after all, with some stores and equipment. After crossing the Murrumbidge, then in flood, they discovered a large river which Hovell named the Hume (later proved to be part of the Murray), crossed the Mitta Mitta, Goulburn and Ovens Rivers, and on 16 December sighted Port Phillip. An error in calculating their position led Hovell to believe that they had arrived on the western shore of Westernport, but they were on Corio Bay in Port Phillip. They returned to Sydney on 18 January 1825 and reported a tract of fine land north of the furthest point they reached.¹⁷

ORDER TO FORM SETTLEMENT

As a result of their favourable report the Imperial Government issued instructions for a settlement to be formed at

16. *Ibid.*, p. 89.

17. H.R.A., III, v, n. 893, A.D.B. 1788-1850 Vol. 1, 556 and 564.

one or both of Westernport or Port Phillip. It was considered that their comparatively short distance from Sydney, and above all their vicinity to Van Diemen's Land would render such establishments of essential advantage to the New South Wales Government.¹⁸ It was decided to settle at Westernport and the party to effect this, which included Hovell, left Sydney late in 1826 under the command of Captain Wright in the brig *Dragon* escorted by H.M.S. *Fly* (Captain F. A. Wetherall). On arrival at Westernport, Hovell realised his mistake on the 1824 expedition, but the surrounding country was examined and great quantities of very fine coal were discovered.¹⁹

It is worthy of note that other considerations than those already given, applied to and in fact were mainly responsible for the Imperial Government's decision to settle not only southern New South Wales but the Swan River as well. Earl Bathurst sent, with official despatches relating to the settlement of Westernport or Port Phillip, secret instructions that two French ships had sailed on a voyage of discovery and this led the Government to consider how far distant possessions in the Australian seas might be prejudiced by any designs the French might entertain of establishing themselves in that part of the world.²⁰

In April 1827, because of scarcity of water and mud flats rendering the shore difficult of access, Darling recommended to Bathurst the withdrawal of the persons sent to establish the settlement.²¹ Bathurst's successor Viscount Goderich gave approval for the withdrawal.²²

During the short life of the strategic settlement at Westernport, John Batman²³ and Joseph Tice Gellibrand²⁴ applied for a mainland grant proportionate to the worth of the livestock (£5,000.0.0) that they proposed to depasture there in Batman's charge. This application was refused on the ground of uncertain policy in relation to the Westernport settlement.²⁵

Apart from sealers and whalers who had private havens along the coast, Batman and the surveyor John Helder Wedge appear to have been the first Vandiemelanders to

18. H.R.A., I, xii, 192-193.

19. A.D.B. 1788-1850 Vol. 1, 556.

20. H.R.A., I, xii, 194-195.

21. H.R.A., I, xiii, 239-240.

22. *Ibid* 450-451.

23. A.D.B. 1788-1850 Vol. 1, 67-71.

24. *Ibid*, 437-438.

25. *Ibid*, 68. Levy, M.C.I. Governor George Arthur. Georgian House, 1953 p. 284.

look northwards of Bass Strait. As early as 1825 they projected an exploration of the interior of Australia. They rarely met afterwards without renewing the subject. Wedge, more interested in discovery than in settlement, volunteered to Lieutenant-Governor Arthur (who was attracted by, but unable to assist, his plan) to conduct an expedition across Australia commencing at the Gulf of Carpentaria.²⁶

With the settlement of the Swan River area in 1829, Arthur saw a valuable avenue of inter-colonial trade and encouraged Launceston traders to take livestock and food-stuffs to Swan River. The Swan River settlement had several other effects on Van Diemen's Land. Its inception drew away troops who were urgently needed by Arthur for protection against the Aborigines who were in 1829 becoming very dangerous; the 63rd Regiment had been intended for the Van Diemen's Land garrison, but a large detachment of it was sent from England to Swan River instead.²⁷

The initial failure at Swan River drove a large number of settlers from there to Van Diemen's Land, which was to the benefit of the island unless they happened to be inefficient clamouring for special treatment in the way of land grants, and appointments to an already well-manned public service.²⁸

HENTY FAMILY'S ROLE

Not to be included in the last mentioned class was the Henty family. Thomas Henty, the head of the family of seven sons and one daughter, viewed England's post-Napoleonic-wars farming prospects as poor, and decided emigration to some part of New Holland, where land was still granted free, would be of advantage to himself and family. His choice lay between New South Wales and Van Diemen's Land, but the British Government's sudden decision to make a settlement at Swan River changed the Henty plans.

In 1829 the vanguard of the family, with stock and labourers, sailed for Swan River in the chartered *Caroline* in charge of James, the eldest son. Land regulations based on property brought into the colony entitled the Hentys to a grant of 84,413 acres. Two summers at the Swan and explorations further afield convinced James that the country's poverty of soil made success impossible in farming and pastoral pursuits. He therefore appealed through his father, then still in England, to the British Government to permit the exchange of the Swan River grant for a smaller one in

26. Levy *Op. cit.* p. 283.

27. H.R.A., I, xv, 275.

28. Levy. *Op. cit.* p. 281.

Van Diemen's Land. In 1831 James transferred his capital to Launceston, where he was joined by Thomas in 1832 with Mrs. Henty, Jane the daughter, and three of the four remaining sons.

In the meantime, changed land regulations had ended the system of free grants; the Hentys' exchange proposal was refused, a serious blow to their fortunes. Henceforth land was to be sold to the highest bidder, and the Hentys, because of expenditure in Western Australia, had not enough money to compete. Nor was unoccupied productive land in Van Diemen's Land any longer available, a condition that turned the thoughts of many, including the Hentys, to the mainland coast opposite the enormous area of empty land across Bass Strait in the almost unknown Port Phillip District of New South Wales.

The Hentys applied to the British government again, this time for 20,000 acres at Portland Bay. Edward Henty, whose choice this area was, wanted to squat there in anticipation of obtaining a title.²⁹ This despite a Government order of 14 October 1829 which defined the boundaries of the colony within which settlers were permitted to select land. H.M. Government was desirous of limiting the dispersal of settlers in an unrestricted manner over the length and breadth of the colony.³⁰ The main reason for the anti-dispersal measures was economy; the spread of settlement required, in its train, the provision of services by the Colonial Government, all of which cost money and usually involved the Home government in additional expense.

Thomas Henty insisted on a personal inspection of not only "the Bay" but the south coast and Swan River before he consented to moving into Portland Bay. On 19 November 1834 the pastoral settlement of the Port Phillip district was begun. While still unauthorised settlers, the Hentys began whaling at Portland Bay and took their flocks and herds inland to the rich areas on the Wannon River, the Australia Felix described to them by Major Mitchell, their discoverer, when he reached Portland Bay overland from Sydney in 1836.³¹

THE ASSOCIATION CRYSTALLISES

Batman, Wedge and Gellibrand continued to be greatly impressed with the possibilities of settlement on the good land around Port Phillip. In 1834 the Port Phillip Associa-

29. A.D.B. 1788-1850, Vol. 1, 531.

30. H.R.A., I, xvii, 616 and 776-777.

31. A.D.B. 1788-1850, Vol. 1, 531-532.

tion crystallised; the three men already mentioned were joined by T. Bannister, James and William Robertson, Henry Arthur (nephew of Lieutenant-Governor George Arthur), J. Sinclair, J. T. Collicott, A. Cotterill, M. Connolly, W. G. Sams, James Simpson, Charles Swanston and the Scottish capitalist George Mercer. Mercer, who was Edinburgh based, was to make representations to the Secretary of State in London on behalf of the Association.

The Association (which was also called the Geelong and Dutigalla Association) fitted out an expedition in 1835 with a view to settling the areas around Port Phillip if reconnaissance confirmed the belief that good grazing lands were there and found means to prevent collision with the local tribes.³² The Association had conceived the idea of obtaining cession of land from the natives of the area.

Batman sailed from Launceston in a small vessel of 23 tons, the *Rebecca*, in May 1835. On board the vessel besides Batman there were Harwood, the captain, Robson, the mate, three white men, and seven Aborigines from New South Wales.

Batman returned to Tasmania in June after obtaining the cession of 600,000 acres at Port Phillip.³³ The tract ceded was claimed to have been obtained by treaty. The treaty, so called, consisted of two deeds, each dated 6 June 1835 and concluded between John Batman on the one part and on the other part eight Aborigines, three of whom were brothers and were described as "principal chiefs", and five described as chiefs of "a certain native tribe called Dutigallar".

By one deed, 500,000 acres, known as Dutigall, were conveyed to John Batman for and in consideration of twenty pairs of blankets, thirty tomahawks, one hundred knives, fifty pair scissors, thirty looking-glasses, two hundred handkerchiefs, one hundred pounds of flour and six shirts, and further subject to the payment of a yearly tribute of one hundred pairs of blankets, one hundred knives, one hundred tomahawks, fifty suits of clothing — looking glasses, fifty pair scissors and five tons flour. The land thus conveyed lies to the north-east, north, west and south-west of, and included the modern city of Melbourne. It was described as "that Tract of Country, situate and being at Port Phillip, running from the branch of the river at the top of the Port, about seven miles from the mouth of the river, forty miles north east, and from thence west forty miles across Iramoo Downs

32. A.D.B. 1788-1850, Vol. 1, p. 68. Levy, *op. cit.* p. 284.

33. H.R.A., I, xviii, n. 826.

or Plains, and from thence south south west across Mount Vilanmarnartar to Geelong Harbour at the head of the same". The river mentioned is now known as the Yarra.

By the second deed, one hundred thousand acres, known as "Geelong" were conveyed by the same chiefs to John Batman for and in consideration of twenty pair of blankets, thirty knives, twelve tomahawks, ten looking-glasses, twelve pair scissors, fifty handkerchiefs, twelve red shirts, four flannel jackets, four suits clothes and fifty pounds of flour, and further subject to the payment of a yearly tribute of fifty pair of blankets, fifty knives, fifty tomahawks, fifty pair scissors, fifty looking-glasses, twenty suits of slops or clothing and two ton of flour. This land extended from the southern shore of Geelong harbour, and included the whole peninsula of land on the western side of the entrance to Port Phillip.³⁴

LAND TITLE CLAIMED

On 27 June 1835 the promoters of the enterprise wrote to Lord Glenelg claiming recognition of their title to the land. On 29 June a deed was signed, defining the objects of the enterprise; and thereby the Port Phillip Association was constituted formally. The parties to this deed were C. Swanston, T. Bannister, J. Simpson, J. T. Gellibrand, J. and W. Robertson (merchants) and J. T. Collicott all of Hobart town, H. Arthur, J. H. Wedge, J. Sinclair, A. Cotterell, W. G. Sams and M. Connolly (merchant) all of Launceston, G. Mercer of Edinburgh (Scotland) and J. Batman of Ben Lomond (Tasmania).

The property of the association was divided into seventeen parts, of which two were held by J. Batman, one by J. and W. Robertson jointly, and one each by the remaining members of the association. The remaining two shares were held by G. Mercer in trust to be apportioned at his discretion.

J. Batman and J. H. Wedge were appointed as superintendents at Port Phillip, and each member of the association undertook to land at his own expense five hundred breeding ewes at Port Phillip within six months, and five hundred more within twelve months, and to provide and maintain the men necessary to take care of the sheep. By an indenture dated 30 June, John Batman transferred the land he had acquired at Port Phillip to C. Swanston, J. T. Gellibrand and J. Simpson, virtually as trustees for the association.³⁵

34. *Ibid* n. 811.

35. *Ibid* n. 826.

There is a suggestion that the "two blank shares" held by Mercer were "to be made present . . . to his Majesty's Ministers . . . to propitiate the Parliament, and thus confirm the Company's purchase".³⁶

A statement by John Pascoe Fawkner, who arrived too late on the "ideal spot for a village", that Henry Arthur was merely a "straw-man" for his uncle, and his suggestion that the Lieutenant-Governor was in some way associated with Batman, said to be one of his spies in Van Diemen's Land, are as groundless as they are spiteful. Arthur had lent Henry money which may have been used in this venture; he also had, in 1844, a Victorian sheepfarm; but otherwise his official attitude to the Company indicates clearly that he had no part in it.³⁷

On 25 June 1835 Batman had submitted to Lieutenant-Governor Arthur a report on his visit to Port Phillip and the acquisition of land from the natives. On 3 July, John Montagu, the Colonial Secretary, replied and stated "that the recognition of the rights, supposed to have been acquired by the Treaty, into which you have entered with the natives, would appear to be a departure from the principle upon which a Parliamentary sanction, without reference to the Aborigines, has been given to the settlement of Southern Australia as part of the possessions of the Crown". In writing to the Secretary of State on 4 July, Lieutenant-Governor Arthur referring to Batman, stated "as regards the confirmation of his treaty with the natives, I have plainly told him I could not hold out the slightest prospect of its being favourably considered". Some weeks later, Arthur submitted a report with Batman's statement to Governor Bourke.³⁸

The situation created by the Port Phillip Association held the seeds of anarchy, but the firm and tactful policy of Governor Bourke resulted in the unauthorised occupation of the Port Phillip lands by white people quickly changing into a well-ordered and well-governed settlement.

THE CROWN'S ATTITUDE

As soon as he received Arthur's report Bourke issued a proclamation dated 26 August 1835, declaring every "treaty, bargain and contract with the Aboriginal natives" for the acquisition of land within his jurisdiction to be "void as

36. Levy. *Op. cit.* p. 284.

37. *Ibid* p. 284.

38. H.R.A., I, xviii, p. xxiv.

against the rights of the Crown"; and all persons found in possession of such lands without licence or Authority from the Government, to be trespassers, and "liable to be dealt with in like manner as other intruders upon the vacant lands of the Crown". This proclamation was issued with the advice of the Executive Council and was necessary for asserting the rights of the Crown.³⁹

Whatever the Dutigalla chiefs thought of the treaty by which they granted away their tribal lands "with livery of seisin" and all the other legal jargon set down for them by Gellibrand, is not chronicled; but it is obvious that the attitude of the Crown and its officers was definite enough to upset the whole arrangement. Arthur was duly affected, but "not quelled" by "the plausible talk of religion and the attempt to colonise, not by knocking the natives on the head, but by buying their property, and endeavouring to induce them to industrious habits". He thought this "all stuff, and that it would be better for all parties to be sincere, and plainly state that the occupation of a good run for sheep had been the primary consideration, if not the only one"; he was pleased to get rid of Gellibrand "whose political schemes having proved abortive in Van Diemen's Land, would doubtless try his hand at making mischief at Port Phillip"; and upset the "white Australian", Batman — on whose kindness to the blacks he did, in point of fact, rely to stop outrages — by (allegedly) saying "his record in Van Diemen's Land qualified him less as a Conciliator, than as an Exterminator of Aborigines".⁴⁰

Gellibrand had been Attorney-General of Van Diemen's Land between 1823 and 1826. However, he offended Arthur by his independent stand and refusal to institute actions which he thought it improper for the Crown to bring, such as the case of an officer of Arthur's who had been maligned by a Hobart newspaper editor, R. L. Murray. Gellibrand was strongly opposed to many of Arthur's actions and, as Murray's friend, assisted him with editorials for his paper. Legally Gellibrand was correct in refusing to bring the actions, but he was imprudent, considering his association with Murray and his differences with Arthur. The latter eventually was able to bring about Gellibrand's removal from office in 1826. Gellibrand fought his dismissal until his death. His professional conduct was above reproach, but

39. *Ibid* p. 154, 379, 386 and 811.

40. Levy. *Op. cit.* 284-285.

his association with Murray was unwise and the real cause of his dismissal.⁴¹

John Batman²³ had a positive genius for conciliatory dealings with firstly the Tasmanoids and later the mainland Aborigines around Port Phillip. He was persevering in his efforts at conciliation and it is doubtful if Arthur said of Batman what he allegedly did. However, not every settler was a Batman.

"MORAL ENLIGHTENMENT"

K. M. Dallas, in a paper entitled "Slavery in Australia — Convicts, Emigrants, Aborigines" delivered to the Tasmanian Historical Research Association in 1966⁴² says:

"The recurring theme of moral enlightenment in 'the duty to extend to the Aborigines the blessing of Christianity in lieu of the advantages to be derived from possession of the soil by the British Empire and the Association' was stated by George Mercer in advancing the claims of the Port Phillip Association. This as Arthur wrote to Bourke a year later was 'all stuff — a sheep run was the primary consideration'.⁴³ Yet Arthur wrote the same stuff to Hay in his suggestion that he might superintend the formation of the settlement. There is circumstantial evidence that Arthur was either a sleeping partner in the Association or intended to be one if its claims were recognised".

In this last statement Dallas is in direct conflict with Levy, who considers Fawcner's remarks in similar strain were animated by spite and groundless. To provide labour in the new settlement, Dallas states, "Arthur suggested to Hay that convicts might be given conditional pardons 'on condition of residing in Southern Australia', but Batman's conciliation of the Aborigines is exposed by Swanston's letters as intended to make them into docile servants. The finding of Buckley (an escapee from the Collins' settlement of 1803 who had lived with the Aborigines for over 30 years)⁴⁴ was seen as a means to 'gaining the most complete control over his people'. Swanston went on: 'We at present feed the tribes daily but on Mr. Batman's return they are to be fed only at the full of the moon. Clothes and

41. A.D.B. 1788-1850, Vol. 1, 437.

42. T.H.R.A. Papers and Proceedings Vol. 16 No. 2 (Sept. 1968) pp. 61-76 at p. 73.

43. In addition to Levy (40) vide also Marnie Bassett "The Hentys" pp. 286-287 and footnote.

44. A.D.B. 1788-1850, Vol. 1, 174-175.

presents of all kinds have been sent. No means will be left untried to conciliate them and keep them on good terms. Buckley will be our mainspring'.⁴⁵ Another Christian gentleman prominent in this association wrote of the 'duty and interest to teach them domestic and useful habits and to instill into their minds religious precepts' and at Port Phillip the system of barter was used for this purpose. 'The supply of food should be made to depend on their bringing some commodity of their own to exchange . . . women make baskets which might even be sent to England'. For male adults some light employment might be required — they should on no account be coerced in permanent labour — 'rather let their occupation bear the appearance of amusement'.⁴⁶ The Port Phillip gentlemen were eminent reputable citizens who hoped to employ Aborigines on the tucker standard because convicts, ex-convicts and pauper immigrants were not available."

CONCERN FOR ABORIGINALS

Crawford, Ellis and Stancombe, who edited the diaries of John Helder Wedge 1824-1835, do not ascribe to the members of the Port Phillip Association the same cynicism towards the Aborigines that Arthur and Dallas do. Batman and Wedge, at least, do seem to have had a genuine concern for their welfare.⁴⁷ Wedge's fears that those outside the association would have no scruples in their dealings with the natives were realised by 1836; he felt that the terror which had overwhelmed Van Diemen's Land in 1830 would be repeated on the mainland, with no solution but the eventual extinction of the Aborigines. This in fact was substantially what happened.

Despite the fact that G. A. Robinson,⁴⁸ the Tasmanian conciliator, was appointed Protector of Aborigines at Port Phillip his protectorate was attended by little success. Subjected to the new conditions he found on the mainland, the chief of which was that the Aborigines upon whom he was trying to thrust his idea of civilisation were free to come and go as they wished, he nevertheless applied the same methods to the Victorian tribes as to the Tasmanians. He had not learned or even realised that a culture cannot be broken

45. Dallas quotes from Sivanston-Mercer, 27 Aug. 1835. Swanston Letter Books.

46. J. H. Wedge, *H.R.A.*, I, xx, 488-489.

47. Crawford, Ellis and Stancombe, (eds.). *The Diaries of John Helder Wedge 1824-1835*. (The Royal Society of Tasmania 1962) pp. xvi, xviii-xx.

48. George Augustus Robinson (1788-1866), *A.D.B. 1788-1850* Vol. 2, pp. 385-387.

down unless it is fully replaced by another; and in any case he was hamstrung by his religion.

The Port Phillip protectorate was abolished on 31 December 1849.⁴⁹ Disease and the settlers had made the protectorate no longer necessary; the remnants of the tribes were ready to come under mission influence and by the 1860's some measure of success, according to mission sources, was being achieved in Victoria.⁵⁰

In a despatch dated 10 October 1835 Bourke submitted a report to Glenelg concerning the occupation of Port Phillip by unauthorised persons and advocated the early official occupation of Port Phillip. He stated full and convincing reasons. "Admitting as every reasonable person must, that a certain degree of concentration is necessary for the advancement of wealth and civilisation, and that it enables government to become at once efficient and economical, I cannot avoid perceiving the peculiarities, which in this Colony render it impolitic and even impossible to restrain dispersion within limits that would be expedient elsewhere."

He stated that wool was at that time the chief source of wealth in the colony and that "a free range over the wide expanse of native Herbage, which the colony affords", was the only means of maintaining the increased production. He considered it improvident to raise artificial food for stock, "whilst nature presents all around an unlimited supply of the most wholesome nutriment" beyond the limits of location. Apart from "these powerful reasons for allowing dispersion", he admitted that Government was unable to prevent it. "No adequate measures could be resorted to for the general and permanent removal of intruders from waste lands, without incurring probably a greater expense than would be sufficient to extend a large share of the control and protection of Government over the country they desire to occupy. One principal objection to dispersion thus becomes as powerful against its restraint". As a solution of the problem, "how may this Government turn to the best advantage a state of things which it cannot wholly interdict", Governor Bourke proposed the sale of lands in advantageous situations, irrespective of their distance from other locations, and the establishment of separate centres of civilisation and government. He proposed therefore that a township should be marked out at Port Phillip, and that the town allotments and a portion of the adjoining land should be sold. The pro-

49. N. J. B. Plomley (Ed., *Friendly Mission* (T.H.R.A. 1966) pp. 934-935.

50. *Brisbane Courier*, Thursday 6 October 1864, p. 3.

ceeds, he suggested, should be applied to the cost of the survey and measurement of the land, the appointment of a police magistrate, a constabulary force and an officer of customs, and the establishment of schools.⁵¹

OFFICIAL OCCUPATION

In his reply to this despatch, dated 13 April 1836, Lord Glenelg fully approved of the policy proposed by Bourke. He admitted that the Government was unable to prevent the dispersion of settlement, and that "all that remains for the Government in such circumstances is to assume the guidance and directions of enterprises which, tho' it cannot prevent or retard, it may yet conduct to happy results". He further suggested that Batman and his associates had "given birth to undertakings, which deliberate reflection would have recommended rather than discouraged". He also says: "Although many circumstances have contributed to render me anxious that the Aborigines should be placed under a zealous and effective protection, and that their Rights should be studiously defended, I yet believe that we should consult very ill for the real welfare of that helpless and unfortunate race by recognising in them any right to alienate to private adventurers the land of the colony. It is indeed enough to observe that such a concession would subvert the foundation on which all Proprietary rights in New South Wales at present rest, and defeat a large part of the most important Regulations of the Local Government".⁵² The Government did not encourage "schemes of settlement in unlocated districts of Australia by private individuals or Companies, as leading to settlements involving the Mother Country in indefinite expense, and exposing both the natives and the new settlers to many dangers and calamities".⁵³

In the meantime emigration from Tasmania to Port Phillip had commenced in July 1835 and continued uninterruptedly and large shipments of stock were carried across Bass Strait. The stockmen of a crowded island came singly and in groups to test the news of unrestricted room. Their sheep — 15,000 by March 1836 and the enterprise seemingly unabated — arrived every week in schooners and brigs *The Hetty*, the *Champion*, *Gem*, *Chili*, *Adelaide*, were shuttling endless lines of enthusiastic men with stock and material to "Port Phillip and Prosperity". They were unstoppable!

The pioneers had already spread out: Batman had 1500

51. H.R.A., I, Vol. xviii, 153-158.

52. *Ibid* 379-381.

53. Levy. *Op. cit.* p. 285.

sheep at Moonee Ponds; Swanston was at Werribee River; Wedge lower down that river. There were flocks near Bell Post Hill, at Pollock's Ford, and in the Barrabool Hills where Dr. Alexander Thomson (whose family was camped on the site of Spencer Street station) had sent his quota. The late-comers spilled over beyond the "originals", finding like Robert von Stieglitz of the Moorabool, "country so new that there was no power whatever to uphold the law".⁵⁴

BAY HAZARDS REMAIN

The navigational hazards of Port Phillip bay were not magically overcome in 1835. They were still there even though the schooners being used were hardier vessels than the big ships of 1803 and could put back if conditions were adverse; but even with these the losses were high. Swanston lost 1200 sheep in one voyage because bad weather prevented the schooner from entering Port Phillip and forced it to take refuge in Westernport, where the cargo could not be landed and consequently died. For years the settlement had no direct overseas trade, shipping its wool and getting supplies via Launceston. By 1840 steam ships were in use, the entrance was marked by lighthouses, the shoals of the bay were charted and marked, but even then Geelong rivalled Melbourne as a big ship port. At Melbourne the Yarra entrance had a depth of only nine feet; big ships lay in an open anchorage and landed goods by boats on the beach. Steamships, however, were not the complete answer and even to-day the entrance and winding channels within the bay present hazards to shipping and it is a common experience for large steamers and small alike to heave-to off the entrance of the Bay for a whole day during south-west-erly gales because the entrance is unsafe.⁵⁵

Within twelve months of the date of Batman's treaty with the natives Governor Bourke sent a magistrate, G. Stewart, to report on the Port Phillip settlement. On his return to Sydney, Stewart submitted a report dated 10 June 1836. He stated that the European population at Port Phillip numbered 142 males and 35 females; that the number of sheep were computed at 26,500, of horses at 57, and of horned cattle at 100; and that the estimated value of the whole stock, together with farming implements, etc., was computed at £80,000. He also stated that eleven vessels, varying in burthen from fifty-five to three hundred tons, had been em-

54. Levy. *Op. cit.* p. 285.

55. K. M. Dallas, *Trading Posts or Penal Colonies* pp. 36, 89 and 90.

ployed in making forty-eight voyages with live stock from Tasmania.

On 1 June 1836 a public meeting was held at the settlement on the Yarra, when it was mutually agreed to submit all disputes, except those relative to land, to the arbitration of James Simpson "with power to him to name two assistants, when he may deem fit", and to impose any fine he might think equitable. Resolutions were also carried at this meeting for the protection of the Aborigines; for a reward of five shillings per head for the destruction of wild dogs; and for the preparation of a petition to Governor Bourke, requesting him to appoint a resident magistrate at Port Phillip.⁵⁶

James Simpson was one of the Port Phillip association members. A former Van Diemen's Land magistrate and Land Board commissioner, he resigned office in February 1836. He arrived at Melbourne in April 1836. As a member of the association he had been allotted an area of land between the Werribee River and Station Peak, but held this for only a short time. Following on his ad hoc appointment on 1 June 1836 he was made a magistrate officially in April 1837. A succession of official appointments followed and he died on 17 April 1857 aged 65 years, highly esteemed and respected.⁵⁷

After receiving Glenelg's despatch of 13 April 1836 Bourke issued a proclamation dated 9 September 1836⁵⁸ announcing that His Majesty's Government had "authorised the location of settlers on the vacant Crown lands adjacent to Port Phillip", and that he had appointed Captain William Lonsdale to be Police Magistrate for the settlement. Lonsdale arrived at the Yarra on 1 October 1836. Although Lonsdale's service in various positions lasted until 1854 when he was Colonial Treasurer of Victoria, the most noteworthy years of his long public career were 1836-1839 when he supervised the founding of the new settlement at Port Phillip.⁵⁹

Within weeks of Lonsdale's arrival he was followed by three surveyors to lay out the township, a constable, an officer of customs, and a lieutenant with thirty soldiers appointed for duty at the settlement.

56. H.R.A., I, xviii, xxvi.

57. A.D.B. 1788-1850, Vol. II, 447.

58. H.R.A., I, xviii, 833.

59. A.D.B. 1788-1850, Vol. II, 124-126.

BATMAN'S SITE APPROVED

Governor Bourke visited Port Phillip in March 1837. He approved of the situation chosen by John Batman and directed a town to be laid out on the banks of the Yarra river to be called Melbourne (in honour of William Lamb, second Viscount Melbourne, who was Prime Minister of England), and a town on Hobson's bay to be called Williams Town. He directed one hundred allotments at Melbourne and a few (seven) at Williams Town to be sold on 1 June. At this time there were about five hundred settlers and one hundred thousand sheep in the district.⁶⁰

In a despatch dated 14 June 1837 Bourke made proposals for the administration of the settlement. He suggested the establishment of Government steam vessels to maintain communication with Sydney. To diminish the necessity for frequent intercourse, he proposed the appointment of a military officer as Lieutenant-Governor or Commandant with civil and military authority, to whom all officers in the settlement would be responsible. He did not think a separate legislature was necessary; but that a representative might attend the legislature at Sydney as the appointed or elected member of the district. He proposed the appointment of a fourth judge of the Supreme Court at Sydney, to hold assizes half-yearly at Port Phillip; and suggested that all expenditure on the settlement should be defrayed from the revenue from the sale of lands and the collection of Customs duties at Port Phillip. These suggestions formed the basis for the form of Government which was established for the district of Port Phillip.⁶¹

In the meantime G. Mercer, acting in the United Kingdom on behalf of the Port Phillip association, conducted negotiations to secure the recognition of the title to the land acquired by John Batman from the natives.⁶²

The Secretary of State, however, refused to admit the title but agreed to allow the first settlers, if practicable, "a priority of purchase on moderate and easy terms of any lands", occupied or improved.⁶³

The settlement of the claims of the association was made by the Executive Council at Sydney, which granted to the association an allowance of £7,000 on any lands purchased on its behalf. This allowance was computed as compensation to the association for £2,390 expended on the natives,

60. H.R.A., I, xviii, xxvii.

61. H.R.A., I, xviii, 780-783.

62. H.R.A., I, xviii, 381 *et seq.*

63. H.R.A., I, xviii, 391.

£2,600 for the vessel engaged, and £2,010 for the expenses of John Batman in securing the treaty with the natives and of J. H. Wedge in his survey.

It was decided that no compensation could be granted for any expenditure by the association subsequent to the date of the proclamation issued on 26 August 1835 by Sir Richard Bourke.⁶⁴ Lord Glenelg acknowledged Bourke's Despatch No. 121 (12 November 1836) in a Despatch No. 341 of 10 July 1837 and approved the basis of settlement of the association's claims as well as the quantum of the compensation.⁶⁵

CROWN HAD LAST WORD

The association, for some time, fought against the award⁶⁶ but at length Sir George Gipps in his Despatch No. 225 of 24 November 1841 to Lord John Russell was able to report that "this business has been brought to a final settlement . . . and that the lands (being 10,416 acres), purchased by Members of the Association at Port Phillip to the amount of £7,000, have been granted in trust to Mr. S. A. Donaldson, a Merchant of Sydney, he having been duly authorized to receive the same as Trustee by the parties interested".⁶⁷

There was an element of adventure and romance in this attempt by a band of men to carve out an empire for themselves in lands they believed to be outside the jurisdiction of the Governor of New South Wales. However, they were over half a century too late in their attempt; Cook's and other acts of possession gave the Crown rights, which it was beyond the power of any subject to successfully deny.

There is little doubt that a "sheep run was the primary consideration", but the motives in regard to the Aborigines remain uncertain; it may have been intended to reduce them to a form of slavery. However, Wedge and Batman appeared sincere in their wish to preserve the indigenous population and avoid the horrors perpetuated in Van Diemen's Land. Therefore there is a reasonable doubt in their favour.

The Port Phillip Association forced the hand of the authorities in that it brought government and orderly settlement to the Port Phillip district ahead of time, and also negated for once and for all the principle of concentrated settlement which the Imperial Government had sought to impose on Australian colonial development.

64. H.R.A., I, xviii, 588-590 and xxviii.

65. H.R.A., I, xix, 787.

66. H.R.A., I, xx, 92-107.

67. H.R.A., I, xxi, 587.